MOTION FILED
DEC 9 1994

(16)

No. 93-1883

In the Supreme Court

OF THE

United States

OCTOBER TERM, 1994

ELOISE ANDERSON, in her official capacity as Director of the California Department of Social Services and RUSSELL GOULD, in his official capacity as Director of the California Department of Finance,
Petitioners,

v.

VERNA EDWARDS, for herself and as Guardian Ad Litem for VERNAIS EDWARDS, PAMELA EDWARDS AND ERICKA EDWARDS; BARBARA MOORE, for herself and as Guardian Ad Litem for REBIANA ROBI, DERRAL ROBI, DELISHA JAA, RAYLEISHA TAYLOR; and VANESSA HAMILTON, for herself and as Guardian Ad Litem for JONNY WATSON, CLEO THOMAS, RICKY MCDONALD, JIMMY PASHELL, and STANLEY HAMILTON, on behalf of themselves and all others similarly situated,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MOTION OF AMICI CURIAE TO FILE OUT OF TIME

CHARLES N. FREIBERG
Counsel of Record
DAVID B. GOODWIN
ROGER W. DOUGHTY
HELLER, EHRMAN, WHITE
& MCAULIFFE
333 Bush Street
San Francisco, CA 94104-2878
(415) 772-6000
Attorneys for Amici Curiae

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The Alliance for Children's Rights, The Brookdale Center on Aging, Institute on Law and Rights of Older Adults, Legal Assistance for Seniors, Legal Services for Children, Legal Services for Prisoners with Children, The National Center on Women and Family Law, Inc., and The Youth Law Center, by and through their attorney and counsel of record, Charles N. Freiberg, move this Court for leave to file an amici curiae brief in *Anderson v. Edwards*, No. 93-1883, out of time.

This motion is necessary because amici curiae submitted their amicus brief in accordance with the requirements of Sup. Ct. R. 29.2, which permits a brief to be considered timely filed when sent to the Clerk by first-class mail, bearing a postmark within the period for filing. Amici were not aware that the Briefing Order entered in this case called for an expedited briefing schedule requiring briefs to be received by the Clerk on or before the last day for filing.

Amici have been granted permission to file this amicus brief under Sup. Ct. R. 37.3 by both petitioners and respondents. Ct. R. 29.2. Respondents support this motion to file out of time. Petitioners do not oppose this motion on condition that petitioners receive a one-day extension of time to file their reply, which is equivalent to the delay in petitioner's receipt of the amicus curiae brief.[1]

Amici believe that this brief will be helpful to the Court in deciding this case. Amici therefore respectfully ask the Court for leave to file the attached Brief of Amici Curiae out of time.

Respectfully submitted this _____ day of December, 1994.

By: _____
Charles N. Freiberg
Counsel of Record

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[1] The exact language of petitioner's grant of permission is as follows: "In light of the prejudice to petitioners from respondents' and amicus curiae Heller Ehrman's late service of their brief, petitioners do not oppose granting permission to file their brief late on the condition that the Court concurrently grant a one-day extension of time, to December 21, at 3:00 p.m. to file and serve their Reply Brief." The complete letter granting permission is attached to this motion.

DANIEL E. LUNGREN
Attorney General

State of California
DEPARTMENT OF JUSTICE

1515 K STREET, SUITE 511
P.O. Box 944255
SACRAMENTO, CA 94244-2550
(916) 445-9555

FACSIMILE:(916) 327-2319
(916) 327-7855

December 9, 1994

Jodie Berger, Esq.
Legal Aid Society of Alameda County
510 Sixteenth St., 4th Flr.
Oakland, CA 94612

RE: Anderson v. Edwards
United States Supreme Court No. 93-1883

Dear Ms. Berger:

This comes to confirm our phone conversation of this date. You informed me that because of the late filing of amicus curiae Heller Ehrman's brief, in support of respondents, the United States Supreme Court is requiring Heller Erhman to file a motion to file a late brief.

In light of the prejudice to petitioners from respondents' and amicus curiae Heller Erhman's late service of their brief, petitioners do not oppose granting permission to file their brief late on the condition that the Court concurrently grant a one-day extension of time, to December 21, at 3:00 P.M. to file and serve their Reply Brief.

As I stated to you in our conversation, petitioners expect that the language of this conditional grant of permission to file a late brief appear in the papers filed with the Court.

Thank you for your attention to this matter.

Sincerely,

DANIEL E. LUNGREN
Attorney General

MATEO MUÑOZ
Deputy Attorney General

cc: Charles Freiberg

TOTAL P.02

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